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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,084	05/06/2004	Michael J. Wech	9423.17675-DIV	7849
26308	7590	02/23/2005	EXAMINER	
RYAN KROMHOLZ & MANION, S.C.			HONG, JOHN C	
POST OFFICE BOX 26618			ART UNIT	
MILWAUKEE, WI 53226			PAPER NUMBER	
			3726	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/840,084	Applicant(s) WECH ET AL.	
	Examiner John C. Hong	Art Unit 3726	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/6/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claims 2 and 4, "outwardly tapered axial projections" is not described in the specification

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2, line 6, "the respective end members" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rieke et al. (U.S. Patent 5,379,913).

Rieke et al. disclose a method for assembling a multi-piece apparatus, the method comprising: providing a first member (39) having an internal bore; inserting a second member (38 and extended portion) into substantial engagement with the respective end of the bore of the first member; indenting a first side proximal the end of the first member; and indenting a second side proximal the end of the first member. (Fig. 4; col. 4, lines 36-54)

6. Claim 2 is, insofar as understood, rejected under 35 U.S.C. 102(b) as being anticipated by Rieke et al..

Rieke et al. disclose a method for connecting an end member (38 and extended portion) to a main member, the method comprising the steps of: providing a main member (39) having at least one opening; placing outwardly tapered axial projections of the respective end members inside the at least one opening formed in the main member; and indenting said main member so as to clamp said main member onto the tapered projections of said end member (Fig. 4, col. 4, lines 36-54).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyden (U.S. Patent 3,540,276) in view of Rieke et al..

Regarding Claim 3, Lyden teaches a method for assembling a fluid level verification apparatus for a fluid container, the method comprising:  
providing a shield member having an internal bore for encasing a sight member;  
placing said tubular sight member having a through bore within said shield member;  
inserting an end member into substantial engagement with the respective end of the bore of said shield member and into sealing engagement with the sight tube through bore (Figs 1-7).

Lyden fails to teach the steps of indenting a first side proximal the end of the shield member; and indenting a second side proximal the end of the shield member.

Rieke et al. teach the steps of indenting a first side proximal the end of the shield member; and indenting a second side proximal the end of the shield member (Fig. 4, col. 4, lines 36-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ the steps of indenting a first side proximal the end of the shield member; and indenting a second side proximal the end of the shield member, as taught by Rieke et al. on the method of Lyden so as to securely attach the flange and the seal tube.

Regarding Claim 4, Lyden teaches a method for connecting respective end members to a shield member in a fluid level verification apparatus having a tubular sight member thereby sealing the end members to the shield member, the method comprising the steps of: placing outwardly tapered axial projections of the respective end members inside openings formed in the shield member ends; abutting the tapered axial projections of the

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end members to respective sealing means which are positioned inside the shield member between the ends of the tubular sight member and the axial projections of the respective end members (Figs 1-7).

Lyden fails to teach the step of indenting the ends of said shield member so as to clamp the shield member onto the tapered projections of the end members.

Rieke et al. teach the step of indenting the ends of said shield member so as to clamp the shield member onto the tapered projections of the end members (Fig. 4, col. 4, lines 36-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ the step of indenting the ends of said shield member, as taught by Rieke et al. on the method of Lyden so as to clamp the shield member onto the tapered projections of the end members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John C. Hong whose telephone number is 571-272-4529. The examiner can normally be reached on M-F(07:00-16:30)First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Hong', with a stylized, cursive script.

John C. Hong  
Primary Examiner  
Art Unit 3726

jh  
22 February, 2005